

MRS. MARY VULLO

DECEMBER 9 (legislative day, DECEMBER 7), 1943.—Ordered to be printed

Mr. KILGORE, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 616]

The Committee on Claims, to whom was referred the bill (S. 616) for the relief of Mrs. Mary Vullo, having considered the same, report favorably thereon with the recommendation that the bill do pass, with the following amendments:

Page 1, line 5, change the figures "\$5,177.50" to "\$2,000".

Page 1, line 8, strike out "on August 8, 1941" and insert "by her and for medical, hospital and other expenses incurred by her,".

Page 1, line 11, after the word "Louisiana" insert a comma and then insert "on August 8, 1941".

The purpose of the proposed legislation is to pay to Mrs. Mary Vullo, of Independence, La., the sum of \$2,000 in full settlement of all claims against the United States for personal injuries sustained by her and for medical, hospital, and other expenses incurred by her when the automobile in which she was riding was struck by a United States Army truck, on United States Highway No. 51, near Hammond, La., on August 8, 1941.

STATEMENT OF FACTS

The report of the War Department states that:

On August 8, 1941, at about 4:40 p. m., a convoy of Army trucks was proceeding south on United States Highway No. 51 toward Hammond. A 1929 Chevrolet two-door sedan owned by Joe T. Spitale, of Independence, La., and operated by Mrs. Joe T. Spitale, in which were riding as passengers Mrs. Mary Vullo and Mrs. Anna De Salvo, both of Independence, was also proceeding south on the same highway. It appears that Mrs. Spitale had been warned by military police to drive to the side of the road and wait until the convoy had passed; that in compliance with such warning she drove off the highway and parked until she thought the last vehicle of the convoy had gone by, and then continued southward; that at a point about 2 miles north of Hammond an Army truck operated by an enlisted man approached the Spitale car from the rear, and the Army driver, sounding his horn, started to pass; that an unidentified car, the speed of which was misjudged by the Army driver, was at that moment approaching from the opposite direction;

that the Army driver cut back sharply to the right to avoid a collision with the oncoming vehicle; and that as he did so the right rear tire of the Army truck struck the left front fender of the Chevrolet sedan, causing the latter vehicle to go out of control and turn over.

The Chevrolet sedan was demolished and Mrs. Vullo, according to the records of the Florida Parishes Charity Hospital, Independence, suffered a compression fracture of the twelfth dorsal and the first lumbar vertebra, with fracture of transverse process of the first lumbar vertebra.

Mrs. Vullo states in her affidavit of October 15, 1942, that she was in the Charity Hospital in New Orleans for 24 days, and after being discharged from said hospital, made several trips to New Orleans for further treatment. Dr. H. Theodore Simon, who is now treating her, stated, under date of March 17, 1943, that this patient was first seen by him on February 2, 1943. Her treatment had been carried out by Charity Hospital up to that time. She was complaining of pain in the lower dorsal vertebra. At Dr. Simon's request, check X-rays were made, which showed a solidly healed fracture of the twelfth dorsal vertebra with no radiographic evidence of complication. He further stated that the patient stands "with very poor posture, and it is apparent that some of the discomfort complained of is from this poor posture, plus the fracture of the vertebra which was sustained in August of 1941." He ordered for her a special type of surgical corset, and gave her some directions concerning the type of mattress to use. He stated that—

Fractures of the nature suffered by Mrs. Vullo usually clear entirely in about 12 months. However, the bad posture, plus the fracture, has produced a continuation of discomfort. It is possible that this discomfort will last for a considerable period of time; this discomfort, in my opinion, is sufficient to produce a definite disability.

Dr. R. F. Gates, of Independence, La., in his report stated that—

While the patient has secured an apparently satisfactory result on the outcome of the fracture, it is my opinion that she will be subject to backache on bending or stooping possibly for the balance of her life.

The report of the War Department further states that—

since there does not appear to have been any fault or negligence on the part of Mrs. Vullo or the driver of the civilian automobile in which she was riding, either in causing or contributing to the accident which resulted solely by reason of the negligence of the Government driver, it is the view of the Department that she is equitably entitled to compensation for the injuries and the resultant medical, hospital, and other expenses incident to her treatment.

As stated by her physicians, Mrs. Vullo "will be subject to backache on bending or stooping possibly for the balance of her life," plus the continuation of discomfort, which "* * *" is sufficient to produce a definite disability." Your committee feel, however, that the amount claimed is excessive in view of the following facts: Claimant has not incurred any loss of wages, since she is a housewife; her medical and hospital expenses amounted to only \$140.50 and other expenses in the amount of \$275; she is married, has no children, and no one dependent upon her. The bill has therefore been amended and your committee recommend favorable consideration thereof.

Appended is the full report of the War Department.

JULY 10, 1943.

HON. ALLEN J. ELLENDER,
*Chairman, Committee on Claims,
United States Senate.*

DEAR SENATOR ELLENDER: The War Department interposes no objection to the enactment of S. 616, Seventy-eighth Congress, a bill which would authorize and direct the Secretary of the Treasury to pay to Mrs. Mary Vullo, of Independence, La., the sum of \$5,177.50 in full settlement of all claims against the United States for personal injuries sustained by her when the automobile in which she was riding was struck by an Army truck on United States Highway No. 51, near Hammond, La.

On August 8, 1941, at about 4:40 p. m., a convoy of Army trucks was proceeding south on United States Highway No. 51 toward Hammond. A 1929 Chevrolet two-door sedan owned by Joe T. Spitale, of Independence, La., and operated by Mrs. Joe T. Spitale, in which were riding as passengers Mrs. Mary Vullo and Mrs. Anna De Salvo, both of Independence, was also proceeding south on the same highway. It appears that Mrs. Spitale had been warned by military police to drive to the side of the road and wait until the convoy had passed; that in compliance with such warning she drove off the highway and parked until she thought the last vehicle of the convoy had gone by, and then continued southward; that at a point about 2 miles north of Hammond an Army truck operated by an enlisted man approached the Spitale car from the rear, and the Army driver, sounding his horn, started to pass; that an unidentified car, the speed of which was misjudged by the Army driver, was at that moment approaching from the opposite direction; that the Army driver cut back sharply to the right to avoid a collision with the oncoming vehicle; and that as he did so the right rear tire of the Army truck struck the left front fender of the Chevrolet sedan, causing the latter vehicle to go out of control and turn over.

The Chevrolet sedan was demolished and Mrs. Vullo, according to the records of the Florida Parishes Charity Hospital, Independence, suffered a compression fracture of the twelfth dorsal and the first lumbar vertebra, with fracture of transverse process of the first lumbar vertebra.

It appears that after emergency treatment was rendered at the above-mentioned institution, Mrs. Vullo was transferred by ambulance to the Charity Hospital of Louisiana, New Orleans, where she was put into a cast in which she remained for 14 weeks. On March 15, 1943, Mrs. Vullo stated that she was in the hospital at New Orleans for 5 weeks and after discharge therefrom made several trips to New Orleans for treatment; that she has had 15 to 18 X-rays made of her back in the New Orleans hospital; that her back hurts all the time and that she has to put a board under her mattress so that she can lie straight in bed; that she cannot work or bend her back, as to do so causes her much severe pain; that she is wearing a long, heavy corset to hold her back straight. A commissioned officer of the Army who visited her states that she "appears to walk very stiff and straight and to be very nervous."

Dr. H. Theodore Simon, 301 Chaille Building, New Orleans, who is now treating Mrs. Vullo, stated under date of March 17, 1943:

"This patient was first seen by me on February 2, 1943. Her treatment had been carried out by Charity Hospital up to that time. She was complaining of pain in the lower dorsal vertebra, and check X-rays were made at my request by Drs. Fortier and Gately, radiologists of this city. These X-rays plates of her spine, antero-posterior and lateral views, show a solidly healed fracture of the twelfth dorsal vertebra with no radiographic evidence of complication.

"Mrs. Vullo stands with very poor posture, and it is apparent that some of the discomfort complained of is from this poor posture, plus the fracture of the vertebra which was sustained in August of 1941. I have ordered for her a special type of surgical corset, and have given her some directions concerning the type of mattress which she must use for sleeping.

"Fractures of the nature suffered by Mrs. Vullo usually clear entirely in a period of about 12 months. However, the bad posture, plus the fracture has produced a continuation of discomfort. It is possible that this discomfort will last for a considerable period of time; this discomfort in my opinion is sufficient to produce a definite disability."

Dr. O. P. Daly, Charity Hospital of Louisiana, New Orleans, stated on March 18, 1943:

"X-rays were reported as follows: On August 8, 1941, 'views of the dorsal lumbar region show the compression fracture of the twelfth dorsal and first

lumbar vertebra. There appears to be no marked posterior displacement of the bodies of the vertebrae on the vertebral canal.' On August 15, 1941, 'views of the dorsal lumbar region show the old fracture of the twelfth dorsal and first lumbar vertebrae. There appears to be less compression than on previous examination.'

"On August 13, 1941, a reduction and application of vertebral plaster jacket was done.

"Patient was discharged on September 2, 1941, with the final diagnosis of compression fracture of twelfth dorsal and first lumbar vertebrae.

"She returned to this clinic on September 2, 1941.

"X-rays were reported as follows: On September 22, 1941, 'views of the spine show that old fracture—there is no change since last examination.' On October 27, 1941, 'views of the dorso-lumbar vertebrae show the previously described fractures with no definite change in the position of the fragments and with the fracture line almost completely obliterated.' On November 17, 1941, 'views of the dorsal vertebrae show no evidence of fracture.' On November 24, 1941, 'views of the dorsal lumbar region show the old compression fracture of the twelfth dorsal and first lumbar vertebrae, with obliteration of the fracture lines. There is no definite change in position or wedging.' On August 24, 1942, 'AP and lateral view of the dorso-lumbar vertebrae show the previously described compression fracture of the twelfth dorsal vertebra. The position and alinement appear to be satisfactory.' On November 23, 1942, 'AP and lateral spot films of the lower thoracic vertebra show a compression fracture of the twelfth dorsal vertebra. The position and alinement of the vertebrae appear satisfactory.'

"Patient again returned to this clinic on November 28, 1942, when she was seen by a member of the visiting staff who advised spinal fusion. There is loss of some portion of the function of the back, the degree we, of course, are not estimating now as she has not reached the end of the healing period.

"Patient was instructed to return in 4 weeks which she failed to do."

On March 15, 1943, Dr. R. F. Gates, Florida Parishes Charity Hospital, Independence, La., stated:

"On August 8, 1941, at 4 p. m., Mrs. Mary Vullo was admitted to Florida Parishes Charity Hospital following an automobile accident involving a private car and an Army truck.

"Mrs. Vullo was transported to the hospital in a United States Army ambulance. I was on duty at the time and personally attended the case. The patient was complaining of pains in the back, stated that she could move her legs and the sensation in her legs was good. An examination revealed some bleeding from the nose, the head otherwise negative. Heart and lungs and upper extremities were negative. Examination of the thorax anteriorly was negative; dorsally there was a marked kyphos over the twelfth dorsal vertebra with considerable ecchymosis on both sides of the spinal column. The impression was crushing fracture of the twelfth dorsal vertebra with kyphos, no demonstrable cord injury.

"X-ray at the time showed crushing fracture of the body of the twelfth dorsal vertebra with kyphosis and slight lateral displacement. There is a fracture of the transverse process of the first lumbar vertebra.

"The patient was loaded into the hospital ambulance and transferred to Charity Hospital in New Orleans for treatment. It is my opinion that this was a quite severe spinal fracture and that probably only proper handling of the patient subsequently to the accident prevented injury to the spinal cord and paralysis of the lower extremities. While the patient has secured an apparently satisfactory result on the outcome of the fracture, it is my opinion that she will be subject to backache on bending or stooping possibly for the balance of her life."

Mrs. Vullo states that she has paid Charity Hospital, New Orleans, \$117, and that she has received treatments there for which she would not pay, since she did not have the money. The following medical and hospital expenses are of record in the War Department:

Charity Hospital of Louisiana, New Orleans-----	\$117. 50
Dr. H. Theodore Simon, New Orleans-----	8. 00
Drs. Fortier and Gately, New Orleans (receipt)-----	5. 00
Do-----	5. 00
Drs. Fortier and Gately, New Orleans (statement)-----	5. 00
Total-----	140. 50

Mrs. Vullo has submitted also the following affidavit, dated March 15, 1943, with respect to other expenses incurred as a result of her injuries:

"Before me, P. E. Dolhonde, a notary public duly commissioned and qualified within and for the Parish of Tangipahoa, State of Louisiana, personally came and appeared Mrs. Mary Vullo, well known to me, who, after first being duly sworn deposed and said that the amount of expenses from August 8, 1941, to September 1, 1942, amounted to \$275, said expenses being gasoline, traveling expenses to and from New Orleans."

It does not appear that Mrs. Vullo has incurred any loss of wages as a result of the accident, since she is a housewife and was not gainfully employed at the time of her injury. She was about 27 years of age at the time of the accident, is married to Morton Vullo, age 38 years, and states that she has no children and no one dependent upon her.

As a result of the accident, the following claims were filed with the War Department:

Mrs. Anna De Salvo, in the amount of \$250, for personal injuries.

Mrs. Mary Vullo, in the amount of \$5,000 for personal injuries.

Joe T. Spitale, in the amount of \$200 for damage to his Chevrolet sedan.

Mr. Spitale's claim for damage to his automobile was approved by the War Department in the amount of \$90 under the provisions of the act of December 28, 1922 (42 Stat. 1066; 31 U. S. C. 215-217), on the ground that the proximate cause of the accident was the negligence of the Government driver in attempting to pass Mr. Spitale's car without first properly assuring himself that the road to his left was sufficiently clear of oncoming traffic to execute such a movement in safety. The claims of Mrs. De Salvo and Mrs. Vullo for personal injuries were necessarily disapproved for the reason that there is no law or appropriation available to the War Department for the administrative settlement of claims of this character.

It seems clear from the medical evidence hereinbefore quoted that Mrs. Vullo has sustained serious injuries, resulting in a considerable degree of permanent disability. The evidence of record also discloses that for the treatment of her injuries she has already incurred medical and hospital expenses amounting to \$140.50 and will doubtless incur further expenses for medical treatment; and that as a result of the accident she has incurred traveling expenses in the amount of \$275. Since there does not appear to have been any fault or negligence on the part of Mrs. Vullo or the driver of the civilian automobile in which she was riding at the time of the accident, either in causing or contributing to the accident, which resulted solely by reason of the negligence of the Government driver, it is the view of the War Department that she is equitably entitled to compensation for her injuries and the resultant medical, hospital, and other expenses incident to her treatment. The War Department therefore interposes no objection to the enactment of the bill.

The fiscal effect of the bill is manifest.

The Bureau of the Budget advises that while there would be no objection to the submission of this report, this advice should not be construed as involving any commitment with respect to the amount of compensation that should be paid the claimant in this case.

Sincerely yours,

HENRY L. STIMSON, *Secretary of War.*

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